IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.Rev.Pet.No. 807 of 2000

CRL.A.NO.168/1994 OF SESSIONS COURT, MANJERI,
CC.47/1994 OF JUDL. MAGISTRATE OF FIRST CLASS, MALAPPURAM.

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REVISION PETITIONER:

ULLADAN ABDUL MAJEED,
S/O. MAMMOKKER,
KONDOTY, THURAKKAL,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR,
ADV. SMT.SMITHA BABU.

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY**
   THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM, KOCHI-31.

2. **THE SUB INSPECTOR OF POLICE,**
   KONDOTTY POLICE STATION,
   MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR SRI. C.K. SURESH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 25/10/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 4269/2000 IN CRL.R.P. NO. 807/2000

DISMISSED

25/10/2007. **SD/- K.R.UDAYABHANU, JUDGE.**

//TRUE COPY//

prv.

K.R. UDAYABHANU, J.

CRL.R.P.NO. 807 OF 2000

DATED THIS THE 25th OCTOBER 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 279, 337 & 338 I.P.C. and sentenced to undergo simple imprisonment for six months for the offence under Section 279 I.P.C., simple imprisonment for three months for the offence under Section 337 I.P.C. and simple imprisonment for one year for the offence under Section 338 I.P.C. The prosecution case is that on 5-4-1993 the accused drove bus bearing Registration No.KLM 7337 through the Kodootty-Kizhissery public road and at Teacherpadid, caused it to hit against a wall on the northern side of the road and as a result the passengers in the bus sustained simple and grievous hurt.

2. The evidence adduced in the matter consisted of the testimony of Pws.1 to 16 and Exts.p1 to P16. Pws. 1,4 to 16 have testified with respect to the incident. PW1 lost one tooth and CW20, Padmini also lost a tooth. The witnesses have identified the accused as the driver of the vehicle. It is evident from the A.M.V.I's report, i.e. Ext.P14 and the evidence of PW14, the A.M.V.I., that there was no mechanical defect to the vehicle. The witnesses have testified that

the incident took place on account of the over speed of the bus as well as negligence on the side of the driver.

In the circumstances and in view of the concurrent findings of the court below, I find no reason to deviate from the findings as to the guilt of the accused. Exts.P12 and P13 discharge certificates of PW1 and Padmini shows that both of them have lost teeth. Exts.P2 to P11 are the wound certificates of the witnesses including that of Padmini. The rest of the witnesses have only sustained minor injuries. Counsel has pleaded for leniency pointing out that more than 14 years have elapsed since the commencement of the proceedings.

In the circumstances, the sentence imposed for the offence under Section 338 is modified to imprisonment till the rising of the court and to pay compensation of Rs.4,000/- to PW1 and Rs.4,000/- to CW20 and in default to undergo simple imprisonment for three months. The revision petitioner is granted three months time to pay the amount of compensation. He shall appear before the Judicial Magistrate of First Class, Malappuram on 25-1-2008 to receive sentence. The criminal revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P. NO. 807 of 2000

ORDER

25-10-2007